

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**APPLIANCE LIQUIDATION OUTLET,
LLC**

Plaintiff,

v.

**AXIS SUPPLY CORPORATION
ABKOT PROPERTIES LLC,
*Defendants.***

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Civil Action No. 5:21-cv-00768

NOTICE OF REMOVAL

Defendant Axis Supply Corporation (“Axis”) hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, and in support states as follows:

STATE COURT ACTION

1. On August 6, 2021, Plaintiff Appliance Liquidation Outlet, LLC (“ALO”) filed an Original Petition in the 150th Judicial District Court of Bexar County, Texas, Cause No. 2021-CI-5956.

2. In that Original Petition, ALO asserted claims against Axis and Abkot Properties LLC (“Abkot”) for state common law trademark infringement and unfair competition, and for unfair competition, false advertising, and violations of the Anti-Cybersquatting Consumer Protection Act under 15 U.S.C. §§ 1125(a), (d).

TIMELINESS AND CONSENT

3. On August 7, 2021, Axis was served with citation and a copy of the Original Petition. This Notice of Removal is therefore timely, having been filed within thirty days after Axis’s receipt, through service or otherwise, of a copy ALO’s pleadings asserting claims against it. 28 U.S.C. § 1446(b).

4. This Notice of Removal also complies with the unanimity requirement of 28 U.S.C. § 1446(b)(2)(A), as Abkot expressly consents to and joins in the removal of this action.

GROUND FOR REMOVAL

5. This Court has federal question jurisdiction under 28 U.S.C. § 1331 because ALO brings various claims under the Lanham Act, 15 U.S.C. §§ 1125(a), (d). *See McCarrell v. Offers.com LLC*, No. 1:19-CV-00112-LY, 2019 WL 3220009 at * 2 (W.D. Tex. July 16, 2019); *see also* Original Petition ¶¶ 24-32. In addition, the Court has jurisdiction under 15 U.S.C. § 1121(a), which confers original jurisdiction upon this Court for all actions arising under the Lanham Act. *See* 15 U.S.C. § 1121(a).

6. The Court has supplemental jurisdiction over ALO's state law claims. 28 U.S.C. § 1367.

VENUE

7. Pursuant to 28 U.S.C. § 1441(a), venue is proper in this Court because the Court is part of the district and division embracing the place where this action is currently pending.

NOTICE

8. Axis will give notice of the filing of this Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d). Axis will also file with the clerk of the state court and will serve upon all counsel of record a notice of the filing of this Notice of Removal.

EXHIBITS TO NOTICE OF REMOVAL

9. Attached hereto as **Exhibit A** is a true and correct copy of the docket sheet, and all documents on file in this matter in the 150th District Court, Bexar County, Texas, including all pleadings and process served upon Axis. No other pleadings, process, or orders have been served on Axis or filed in the state court litigation at the time this Notice of Removal was filed.

PRAYER

Defendant Axis Supply Corporation, pursuant to the statutes cited herein and in conformity with the requirements set forth in 28 U.S.C. § 1446, hereby removes this action from the 150th District Court of Bexar County, Texas to this Court.

Respectfully submitted,

By: /s/James G. Ruiz

James G. Ruiz

State Bar No. 17385860

WINSTEAD PC

401 Congress Ave., Suite 2100

Austin, Texas 78701

(512) 370-2818

(512) 370-2850- Fax

jruiz@winstead.com

**ATTORNEY FOR DEFENDANT AXIS
SUPPLY CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2021, a true and correct copy of the foregoing was electronically served on all attorneys of record.

/s/James G. Ruiz
James G. Ruiz